Australian Centre for Disability Law

ABN 15 992 360 253

SUBMISSION IN RESPONSE TO THE CRIMINAL JUSTICE SYSTEM ISSUES PAPER OF THE ROYAL COMMISSION INTO VIOLENCE, ABUSE, NEGLECT AND EXPLOITATION OF PEOPLE WITH DISABILITY ("THE ROYAL COMMISSION")

The Australian Centre for Disability Law ("**ACDL**") welcomes the opportunity to contribute to the Royal Commission's consideration of issues relating to the criminal justice system. ACDL is a specialist community legal centre, our vision being one of a society in which persons with disability live with dignity, and in which their human rights and fundamental freedoms are recognised, respected, protected and fulfilled. In order to achieve this vision, ACDL provides specialist legal advice and advocacy services where our clients have experienced discrimination and in other areas of law relevant to disability.

The ACDL provides free legal advice, information and referrals and representation to people with disability in relation to discrimination and other areas of civil law that affect people with disability. Our legal services are directed to vulnerable and disadvantaged clients who often experience disadvantage in other areas of their lives. ACDL also seeks to promote the importance of non-discrimination against people with disabilities through extensive community legal education programs.

ACDL also promotes and advances the human rights of people with disability in Australia through its human rights legal work in international communications on behalf of people with disability under the Optional Protocol of the United Nations Convention on the Rights of Persons with Disability.

As we are largely a civil law practice, we cannot provide commentary in response to many of the questions raised in the issues paper. However, our submission will focus on issues in relation to our human rights legal work in an international setting, particularly in relation to complaints we have lodged on behalf of people with disability who have been subjected to indefinite detention in Australia.

What factors cause or contribute to persons with disabilities being subject to indefinite detention in Australia?

In the criminal justice system, a number of factors cause or contribute to people with disabilities facing indefinite imprisonment. These factors include:

(a) Inadequate laws governing unfitness to stand trial. We have seen this issue in particular repeatedly in our practice, and will provide some case studies below which demonstrate the pervasive nature of this problem.
(b) Lack of suitable alternative accommodation. Without access to appropriate accommodation, prison is used as an alternative accommodation option for people with disabilities.
(c) Limited support services, for example: people with mental disabilities are often remanded in custody and cannot get bail because of a lack of support and care at home.

(d) Lack of court diversion programs which allow judicial officers to adjourn matters whilst defendants engage in support services, including assistance with addiction and mental health issues, particularly in remote areas or for complex disabilities.
(e) Perceived or actual difficulty in understanding bail or parole conditions.
(f) Lack of resources and time to support the full participation in the justice system of people with disability.[1]

Further, in some jurisdictions such as Western Australia, the Northern Territory and Victoria, there are no statutory limits on the period of detention (although in the Northern Territory and Victoria, the court must set a 'nominal term' for supervision).[2]

Specifically:
(a) in Western Australia, the *Criminal Law (Mentally Impaired Defendants) Act 1996* (WA), does not place limits on the period of custody orders for persons detained after being found not mentally fit to stand trial (section 19).
(b) in the Northern Territory, the *Criminal Code* (NT) provides that supervision orders for persons found not fit to stand trial are 'for an indefinite term'. See Schedule 1, section 43ZC.
(c) in Victoria, custodial supervision orders are for an indefinite period although the *Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 (Vic)* also requires the court to set a 'nominal term' for the purposes of review. See section 27 and 28.
    (i) The nominal terms are generally equivalent to the maximum terms of imprisonment available for the offence.
    (ii) The Victorian Act provides judges with the flexibility to decide how often to review, or further review, 'custodial supervision orders'. The Victorian Law Reform Commission recommended in 2014 that the legislation should require regular, automatic review of each custodial supervision order at an interval of no longer than every two years.[3]

<u>Aboriginal Australians</u>
Aboriginal Australians are significantly, and disproportionately, more likely to be subject to indefinite detention. According to data provided to the Senate Standing Committee on Community Affairs in 2016:
(i) As many as 50% of people detained indefinitely are of Aboriginal and Torres Strait background.[4] In Western Australia, Aboriginal and Torres Strait Islander peoples comprise 34% of people subject to forensic orders despite making up less than 4% of the total population.[5]

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[1] *The Justice Project, Final Report - Part 1, People with Disability*, Law Council of Australia, August 2018, page 1470
[2] Ibid, page 229.
[3] *Equality, Capacity and Disability in Commonwealth Law - Final Report*, Australian Law Reform Commission, August 2014, para 7.86
[4] *Indefinite Detention of People with Cognitive and Psychiatric Impairment in Australia*, Senate Standing Committee on Community Affairs, 29 November 2016, para 2.36
[5] Ibid, para 2.35

(ii) The Aboriginal Legal Service estimates that 95% of Aboriginal people charged with criminal offences appearing before courts either have an intellectual disability, a cognitive impairment or mental illness.[6]
(b) According to a submission made by the Disabled People's Organisation Australia, to the Committee on the Rights of Persons with Disabilities (June 2017):

> *Aboriginal and Torres Strait Islander people with disability are almost 14 times more likely to be imprisoned than the rest of the population. Of the significant numbers of people with disability in the criminal justice system, there are people being detained past the cessation of the supervision or custody order, for indefinite periods. Anecdotally, it appears that there are at least 100 people detained across Australia without conviction in prisons and psychiatric units under mental impairment legislation; and that at least 50 people from this group would be Aboriginal and Torres Strait Islander people with disability. See for eg: Bevan, N., and Sands, T., (2016) Australian Cross Disability Alliance (ACDA) Submission to the Senate Inquiry into Indefinite Detention of People with Cognitive and Psychiatric Impairment in Australia', Australian Cross Disability Alliance (ACDA); Sydney, Australia.*

What can be done to stop persons with disabilities being subject to indefinite detention in Australia?
Numerous recommendations and submissions have been made at various times regarding steps that could and should be taken to stop persons with disabilities being subject to indefinite detention in Australia. However, there appears to be a lack of action by the Federal and State governments in relation to this issue.

Relevant recommendations include the following:

- Ensure that adequate support and accommodation measures are provided to persons with mental and intellectual disabilities to enable them to exercise their legal capacity before the courts whenever necessary.

- When not already in place, legislation should provide for a fixed term of detention when a person is found unfit for trial and prescribe regular periodic review whilst that person is in detention.[7] Specifically:
    - state and territory laws governing the consequences of a determination that a person is unfit to stand trial should provide for limits on the period of detention and for regular periodic review of detention orders;

[6] Ibid, para 2.48.
[7] *Equality, Capacity and Disability in Commonwealth Law - Final Report*, Australian Law Reform Commission, August 2014, Recommendation 7-2, *Pathways to Justice - An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples - Final Report*, Australian Law Reform Commission, December 2017

- limits on the period of detention should be set by reference to the period of imprisonment likely to have been imposed, if the person had been convicted of the offence charged; and
- if the person is a threat or danger to themselves or the public at that time, they should be the responsibility of mental health authorities, not the criminal justice system.[8]

- The current legal test for unfitness to stand trial should be reformed to avoid unfairness and maintain the integrity of criminal trials, while ensuring that people with disability are entitled to equal recognition before the law, and to participate fully in legal processes.[9] In 2014 the Australian Law Reform Commission argued that the unfitness to stand trial test currently places an 'undue emphasis on a person's intellectual ability to understand specific aspects of the legal proceedings and trial process, and too little emphasis on a person's decision-making ability'. Instead, unfitness tests 'should be based on a person's decision making ability in the context of the particular criminal proceedings which he or she faces—that is, a functional approach.'[10]

- Invest in court diversion programs which allow judicial officers to adjourn matters while defendants engage in support services and are diverted out of the criminal justice stream in order to address criminogenic factors prior to trail or sentencing. For example: the Cognitive Impairment Diversion Program (NSW), which was launched as a pilot in September 2017 in the Gosford and Penrith Local Courts. The program involves expanding the Statewide Community and Court Liaison Service to include court-based identification, assessment and diversion of defendants with cognitive impairment, and linking them with the National Disability Insurance Scheme.[11]

- Where not already in place, state and territory governments should introduce special hearing processes to make qualified determinations regarding guilt after a person is found unfit to stand trial.[12] A qualified finding of guilt does not amount to a conviction, and there can be no further prosecution of the person in respect of the same offence. The special hearing should be conducted in a manner as near as possible to a criminal trial, where the criminal standard of proof must be met - beyond reasonable doubt.

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[8] *Equality, Capacity and Disability in Commonwealth Law - Final Report*, Australian Law Reform Commission, August 2014, paragraphs 7.90 to 7.91. See also *The Justice Project, Final Report - Part 1, People with Disability*, Law Council of Australia, August 2018

[9] *Justice Project Final Report*, page 235 under the heading "The need for law reform."

[10] *Equality, Capacity and Disability in Commonwealth Law - Final Report*, Australian Law Reform Commission, August 2014, page 196 and 201

[11] *Pathways to Justice - An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples - Final Report*, Australian Law Reform Commission, December 2017, paras 10.58 and 10.59.

[12] Ibid, Recommendation 10-4.

- Access to alternative accommodation options for people with disabilities who have been found unfit to stand trial should be provided.[13] Examples of alternative accommodation solutions for people found unfit to stand trial due to disabilities include:
    - 'The Bennett Brook Disability Justice Centre in Perth is Western Australia's first 'declared' accommodation for people found unfit to stand trial due to mental impairment who have not been convicted of the alleged crime. The Centre provides an alternative placement option for people who have been deemed unfit to plead due to intellectual disability or cognitive impairment. The Centre delivers supports and services that are tailored to meet the needs of residents and assist them to achieve their goals. The facility is built on the grounds of the Disability Commission (as opposed to on a prison site) and has a capacity to hold a maximum of 10 people. However, as of 22 January 2016, the Centre had received only three residents. This is partially due to the rigorous, multi-step process required to determine who is taken into the Centre and the need for individual Ministerial approval of each entrant.'[14]
    - 'The Complex Behaviour Unit ('CBU') in the Northern Territory similarly offers alternative accommodation for people found unfit to stand trial. However, the CBU operates under the Northern Territory Correctional Services, as opposed to the Department of Health, and is built within the grounds of the Darwin Correctional Centre. While it is a positive step in the right direction, the CBU has limited capacity due to under-resourcing and lack of staff. Greater funding and resources are required to continue to develop alternative accommodation options that offer appropriate and joined-up services for people with disability. These accommodation options should operate as health and rehabilitation facilities as opposed to correctional centres.'[15]

- The role of disability support workers and advocates should be expanded to assist people with cognitive impairment or mental health conditions in their engagement with the justice system, to ensure fair procedure, supported decision-making, early intervention and successful exit strategies from institutions.[16]

- In its report entitled *Indefinite Detention of People with Cognitive and Psychiatric Impairment in Australia,* the Senate Standing Committee on Community Affairs (29 November 2016) made a number of recommendations, which we endorse, including: (a) Recommendation 1 recommends that where a person has been found as unfit to plead and is detained, it must be demonstrated that all reasonable steps have been taken to avoid this outcome.

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[13] Recommendation 5.9 of *The Justice Project*, *Final Report - Part 1*, *People with Disability*, Law Council of Australia, August 2018

[14] *The Justice Project*, *Final Report - Part 1*, *People with Disability*, Law Council of Australia, August 2018, page 1350

[15] Ibid, page 1351

[16] Ibid, Recommendation 5.4

(b) Recommendation 8 recommends that a national statement of principles be adopted with the position that indefinite detention is unacceptable. All state and territory legislation should be amended in accordance with this principle.
(c) Recommendation 13 recommends that Aboriginal controlled organisations should be resourced to provide specialised and culturally appropriate support for Aboriginal and Torres Strait Islander peoples with cognitive and psychiatric impairments in detention and community care.
(d) Recommendation 16 recommends that COAG ensures a consistent legislative approach across all Australian jurisdictions to provide a range of options for the placement of forensic patients beyond unconditional release and prison.
(e) Recommendation 20 recommends that the government work with the Northern Territory government to fund and construct non-prison forensic secure care facilities and other supported accommodated options.
(f) Recommendation 23 recommends the establishment of a working group which reviews existing early intervention programs for people with cognitive/psychiatric impairment and develop and implement programs which engage with such people from the youngest appropriate age.
(g) Recommendation 26 recommends that the Western Australian and Northern Territory governments transition forensic patients currently held in prison to relevant secure care forensic facilities as a matter of urgency.
(h) Recommendation 32 recommends that state and territory governments proactively fund the construction or acquisition of a range of appropriate supported accommodation options across metropolitan and regional locations for people with cognitive and/or psychiatric impairments.

- We note that the Australian Government also agreed to consider the Senate Inquiry's recommendations, in its response to the comments on the Universal Periodic Review in 2016 relating to preventing the indefinite detention of persons with mental disabilities. The Australian Government also developed a *National Statement of Principles Relating to Persons Unfit to Plead or Found Not Guilty by Reason of Cognitive or Mental Health Impairment (National Principles)*. In June 2018 the Council of Attorney's General considered a revised version of the draft and agreed to consider the National Principles at their next meeting in 2018,[17] however there has been no further announcements on the revision or application of these principles, therefore we urge the Royal Commission to request an update from the Commonwealth on this issue.

- Pursuant to its obligations under the *Optional Protocol to the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment*, the Commonwealth government should establish a National Preventative Mechanism body to conduct regular inspections of places of detention and allow access to places of detention by the UN Sub-committee on the Prevention of Torture (United Nations body

[17] https://www.ag.gov.au/RightsAndProtections/HumanRights/United-Nations-Human-Rights-Reporting/upr-recommendations/Pages/Recommendations/194.aspx accessed at 2/4/2020

of independent experts) to conduct periodic assessments. The development of a National Preventative Mechanism may prompt systemic improvements regarding the lengthy and potentially indefinite detention in some jurisdictions of persons who are found unfit to plead.

Case studies

The Australian Centre for Disability Law operates a human rights legal practice, which focuses on submitting complaints of disability discrimination to the Committee on the Rights of Persons with Disabilities under the *Optional Protocol to the Convention on the Rights of Persons with Disabilities*. We provide some case studies of our communications below.

We note that as discussed above, Aboriginal Australians are far more likely to be subject to involuntary or indefinite detention on the basis of their disability, therefore the three communications we have submitted have been on behalf of people who are Aboriginal. Of concern is that despite multiple recommendations to change laws and practices from the international legal community through these communications, each state and territory still retain laws that allow the indefinite detention of people with disability on the basis of their lack of capacity.

Marlon James Noble, CRPD/C/16/D/7/2012

(a) Marlon Noble is an Aboriginal man with a mental and intellectual disability who was charged with sexually assaulting two girls in Western Australia in October 2001. He was deemed unfit to stand trial due to cognitive impairment and spent almost 10 years in prison without a conviction before being released with strict bail conditions. He was never given an opportunity to legally challenge the criminal allegations against him.

(i) In early 2002, Noble appeared in court and was held in custody until March 2003 when he was declared unfit to stand trial due to cognitive impairment. As a result of the finding of unfitness to stand trial, the Court quashed the indictment and dismissed the charges. Noble did not have the opportunity to plead not guilty, and the Court made no finding of guilt.

(ii) In the absence of any 'declared places' other than prison under the *Criminal Law (Mentally Impaired Accused) Act 1996* (WA) (MID Act), the only options open to the Court were to either release Noble or imprison him. Due to the seriousness of the alleged offences, the Judge considered that public safety required him to imprison Noble, notwithstanding his 'deep concern' that prison was an inappropriate option for him.

(iii) Noble was placed on a custodial order and imprisoned indefinitely pursuant to sections 16 and 19 of the MID Act.

(iv) Responsibility for oversight of Noble's custody order was vested in the Mentally Impaired Defendants Review Board, which determined that Noble was to be detained in custody at the Greenough Regional Prison.

(v) Following a further forensic psychological assessment in June 2010, which found Noble capable of standing trial, his legal representative made an application to the Court seeking an order that Noble was fit to plead. In response, the Western Australian Director of Public Prosecutions advised the Court it was no longer proceeding with the prosecution due to the

substantial time Noble had already spent in custody (a far greater period of time than he would have been had he been found guilty of the original charges) and the 'very limited prospects of securing a conviction …. because of the low quality of the evidence available'.
(vi) In November 2010, the Court dismissed the application on the grounds that it did not have jurisdiction to make such an order.
(vii) The Review Board did not recommend Noble's immediate conditional release because of the limited availability of trained supervisors and carers to support him. He was eventually released in 2012 on ten conditions, including that he was to be always escorted and supervised by a disability support worker.
(c) Noble's matter was considered by the United Nations Committee on the Rights of Persons with Disabilities (the Committee) after ACDL filed a communication on his behalf in 2012. Noble, represented by counsel, argued that if his matter had proceeded by way of general court procedure, he would have either been acquitted and released unconditionally, or if found guilty, he most likely would have been 'sentenced to a term of imprisonment not exceeding 2 to 3 years'.
(d) In September 2016, the Committee ruled that the whole judicial procedure focused on Noble's capacity to stand trial without giving him any possibility to plead not guilty and test the evidence against him. He never had the opportunity to have the criminal charges against him determined and his status as an alleged sexual offender cleared. The charges were never proven and the authorities did not provide adequate support to enable him to stand trial and plead not guilty.
(e) The Committee found that Australia had 'failed to fulfil its obligations under articles 5(1) and (2), 12(2) and (3), 13(1), 14(1)(b) and 15 of the Convention' on the Rights of Persons with Disabilities.

Christopher Leo – CRPD/C/22/DR/17/2013

Mr Leo has an intellectual impairment arising from a brain injury, epilepsy and mental illness. He failed to regularly take his prescribed medication and separately was dependent on alcohol. In August 2007, Mr Leo was charged with assaulting a support services worker and was later found by the Court to be unfit to stand trial due to his mental impairment, and later, was found by a jury before a special hearing to be not guilty of his offences due to this impairment. The Court later decided that Mr Leo could not be released unconditionally, and so placed him in custody in prison under a Custodial Supervision Order (Order) for 12 months. However, due to continual extension of the Order, Mr Leo spent a total of five years and ten months in custody in prison - six times what he would have spent if convicted of the offence.

Mr Leo spent almost the whole period of custody in maximum security - he claimed he was isolated in his cell for long periods, had very limited to zero access to mental health services he required or to rehabilitation programs necessary to develop his communication, social and living skills and behaviours. Mr Leo's mental health and social functioning deteriorated significantly while in custody. Mr Leo was transferred to Kwiyernpe House, a NT Government-operated secure facility, in June 2013, and eventually allowed to transfer to a community

residence, but still with significant restrictions on his movements. ACDL filed a communication on his behalf in 2013.

The Committee in 2016 considered that the decision that the author was unfit to stand trial because of his intellectual and psychosocial impairment resulted in a denial of his right to exercise his legal capacity to plead not guilty and to test the evidence against him, and that the law does not provide for adaptations and adjustments that would enable his culpability for the offences to be determined taking into account his cognitive impairment, and so he was not provided the opportunity to have the criminal charges against him determined. The Committee, acting under article 5 of the Optional Protocol found that Australia had failed to fulfil its obligations under articles 5, 12, 13, 14 and 15 of the Convention.

Manuway (Kerry) Doolan – CRPD/C/22/D/18/2013

Kerry has intellectual and psychosocial impairment. He threatened a carer with a shard of broken glass and damaged property that amounted to about $5,000 during a psychotic episode. He was charged with unlawful aggravated assault and unlawful damage to property. He was found unfit to stand trial and was deemed not likely to become fit for trial within the next 12 months. A special hearing took place and he was found not guilty by reason of mental impairment. The court had to decide whether he ought to be released unconditionally, or liable to supervision, and they placed him under a Custodial Supervision Order and remanded him in custody in the high security section of Alice Springs Correctional Centre. The Court determined that it would have imposed a 12 month sentence of imprisonment, however he was in custody for 4 years and nine months until transferred to Kwiyernpe House in April 2013, and eventually to community accommodation. ACDL made a communication on his behalf in 2013.

The Committee considered that the decision that the author was unfit to stand trial because of his intellectual and psychosocial impairment resulted in a denial of his right to exercise his legal capacity to plead not guilty and to test the evidence against him, and that the law does not provide for adaptations and adjustments that would enable his culpability for the offences to be determined taking into account his cognitive impairment, and so he was not provided the opportunity to have the criminal charges against him determined. The Committee, acting under article 5 of the Optional Protocol found that Australia had failed to fulfil its obligations under articles 5, 12, 13, 14 and 15 of the Convention.

Peter

(a) Peter is an Aboriginal man from the Northern Territory with schizophrenia and intellectual impairment due to an acquired brain injury. He was arrested in 2009 for causing serious harm to his uncle.

(b) Peter was initially released on bail to live with his family. However, when his family could not safely provide adequate care, he was placed in emergency respite care away from his community. He remained in respite care until he was remanded in custody in February 2011.

(c) In 2011 Peter was found to be unfit to stand trial. The Department of Health sought a custodial supervision order as it was believed that Peter could not safely be cared for in the community due to violent behaviour towards his carers.
(d) In November 2011 the Supreme Court imposed a custodial supervision order for a nominal 'term' of 2 years and 6 months, backdated to February 2011, before the end of which a major review was to be conducted.
(e) The Law Council of Australia's report, The Justice Project, Final Report - Part 1, People with Disability dated August 2018 notes that (page 71):
(i) Had Peter been convicted of the offence and sentenced to prison, he would have been released in August 2013. At the time Peter's case study was provided to the AHRC in August 2013, he remained indefinitely in detention and had not undergone a major review.
(ii) During his time in custody, Peter was held in the remand section reserved for 'at risk' prisoners. He was isolated in a single cell with access only to a small walled yard. When his behaviour was acceptable, Peter was granted day release and overnight release. Although, the majority of his time was spent confined in a single cell for up to 16 hours a day.
(iii) An independent psychiatric report concluded that Peter should not be treated in a correctional environment but rather in a health care environment. Despite this, Peter remained in prison in conditions that were harsh and oppressive'.
(iv) The report observes that 'Peter' would likely have spent less time in custody had he pleaded guilty and had his case progressed through the courts, rather than being subject to unfitness to stand trial proceedings

Rosie Ann Fulton

(a) According to evidence provided to the Senate Standing Committee on Community Affairs and included in the Committee's report entitled *Indefinite Detention of People with Cognitive and Psychiatric Impairment in Australia* dated 29 November 2016, Ms Fulton spent 18 months in Kalgoorlie jail without a trial or conviction after being charged with driving offences in 2014.
(b) She was found unfit to plead as she had the mental capacity of a young child due to Foetal Alcohol Spectrum Disorder and a life of abuse. She ended up on a prison-based supervision as there were no other alternatives to prison in the area at the time (para 3.5).
(c) At the time, the Aboriginal Disability Justice Campaign reported that there were at least 30 Indigenous people in similar situations around the country.

Ronald

(a) Ronald's case study was included in a December 2017 report of the Australian Law Reform Commission: *Pathways to Justice—An Inquiry into the Incarceration Rate of Aboriginal and Torres Strait Islander Peoples*.
(b) 'Ronald' is an Aboriginal man who was assessed as unfit to plead. As a result, he was held in custody at the Alice Springs Correctional Centre for about 6 years from August 2007 to July 2013. At the time of the report, he remained in the Secure Care facility.
(c) Ronald's period of detention was initially set at a nominal term of 12 months, however when this nominal term has been reviewed, Ronald's period of detention was further extended due to a lack of community supports and alternatives.

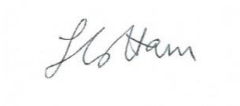
(d) CAALAS estimates that if Ronald had been found guilty of the (unspecified) criminal charges, he would have received a sentence of imprisonment of approximately 4 months. In contrast, at the time of the report he had been in custody for almost 9 years and it was unclear when he would be released.

Francis

(a) Francis' case was included in the Law Council of Australia's report, *The Justice Project, Final Report - Part 1, People with Disability* dated August 2018 (page 81).
(b) Francis was 19 years old and had been assessed as having the capacity of a 3 or 4 year old child. He was diagnosed with complex disabilities, including a significant intellectual disability, autism and Tourette's syndrome.
(c) In September 2017 he was charged with injury and assault offences. The alleged injury was bruising. Francis had never been in custody before and had no prior criminal convictions.
(d) He was placed in custody after his arrest. Due to his complex needs, risk of self-harm and his vulnerabilities within the prison population, Francis was initially detained in solitary confinement for his first week of remand, in 23-hour lockdown.
(e) Francis was granted bail on 23 November 2017 and transitioned from prison to 24-hour support. He had spent two months in prison for a minor assault charge because there was no provider of last resort in Victoria for NDIS participants with complex needs.
(f) It was reported that because of the severity of Francis's disabilities, he was unlikely to be able to plead guilty to the charges. If he could plead guilty, a likely sentencing outcome would be a good behaviour bond or a fine. He would probably not receive a custodial sentence, given his age, lack of prior criminal history and disabilities.

In summary, we believe that as there have already been a number of inquiries and reviews undertaken into these issues, and as discussed above, the Australian Government developed a set of National Principles in relation to this issue in 2018, we submit that the Australian Government should undertake the approval and implementation of these Principles as a matter of priority to ensure that people with intellectual, psychosocial and other mental disabilities are not subject to the arbitrary deprivation of their liberty and the removal of their right to access justice.

Thank you for this opportunity to submit to the Royal Commission, and we look forward to future contributions.



Laura Cottam
Solicitor
Australian Centre for Disability Law